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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

| | | |
|------------------------------|---|------------------------|
| 13 UNITED STATES OF AMERICA, |) | CASE NO. CR 19-216 EMC |
| |) | |
| 14 Plaintiff, |) | DETENTION ORDER |
| |) | |
| 15 v. |) | |
| |) | |
| 16 LARON DEMARIA PRESTLEY, |) | |
| |) | |
| 17 Defendant. |) | |

18 On May 23, 2019, the Court conducted a detention hearing in the above-captioned case for
19 defendant Laron Demaria Prestley. Prior to the hearing, the United States Pretrial Services Office
20 prepared a report which discussed, among other things, the defendant's criminal history and the facts
21 and circumstances giving rise to the defendant's past offenses. At the hearing, the parties submitted
22 proffers and arguments regarding detention.

23 The Court has carefully considered the information contained in the report prepared by Pretrial
24 Services, as well as the proffers and arguments made by the government and counsel for the defendant.
25 For the reasons set forth below, as well as those stated on the record on May 23, 2019, the Court finds
26 by clear and convincing evidence that the defendant is a danger to the community, and that no condition
27 or combination of conditions will reasonably assure the safety of any other person and the community.
28 Accordingly, the Court orders that the defendant be detained.

1 **I. LEGAL STANDARD**

2 Under the Bail Reform Act, an authorized judicial officer may order the detention or release of a
3 defendant pending trial. Facts used to establish a finding that no condition or combination of conditions
4 will reasonably assure the safety of any other person and the community must be supported by clear and
5 convincing evidence. 18 U.S.C. § 3142(f). In reaching its decision, the Court considers information
6 regarding:

7 (1) the nature and seriousness of the offense charged;

8 (2) the weight of the evidence against the defendant;

9 (3) the history and characteristics of the defendant; and

10 (4) the nature and seriousness of the danger to any person or the community that would be posed
11 by the defendant's release.

12 18 U.S.C. § 3142(g).

13 Of these four factors, the weight of the evidence against the defendant is the least important.
14 *United States v. Gebro*, 948 F.2d 1118, 1121 (9th Cir. 1991).

15 **II. PROCEDURAL BACKGROUND**

16 On May 9, 2019, a grand jury returned an indictment charging the defendant with a violation of
17 18 U.S.C. § 922(g)(1) (Felon in Possession of a Firearm and Ammunition), alleged to have occurred on
18 or about September 21, 2018. On May 20, 2019, the parties appeared before the Court for the
19 defendant's initial appearance on the captioned indictment. The government moved for detention. A
20 detention hearing was scheduled for May 23, 2019.

21 On May 21, 2019, the Honorable Edward J. Davila signed a petition ("Form 12") filed by the
22 defendant's United States Probation Officer alleging two violations of the defendant's grant of
23 supervised release in case number CR 16-161 EJD. The first violation alleges that the defendant
24 committed a new federal crime, citing the conduct charged in Count One of the captioned indictment.
25 The second violation alleges that the defendant failed to attend mental health treatment appointments on
26 April 12, 2019 and May 3, 2019.

27 The parties appeared before the Court on May 23, 2019 for a detention hearing in CR 19-216
28 EMC, as well as a preliminary revocation hearing and detention hearing in CR 16-161 EJD. The Court

1 held a single hearing at which the parties addressed the issue of detention in each case. Because the
2 evaluation of whether a person alleged to have violated a condition of supervised release is subject to a
3 different analysis, this Order is specific to the Court's ruling on the government's motion for pretrial
4 detention in CR 19-216 EMC. The Court's ruling as to Mr. Prestley's custodial status in CR 16-161
5 EJD is addressed in a separate Order.

6 At the May 23, 2019 detention hearing, defense counsel sought the defendant's release from
7 custody, citing the fact that the defendant has been out of custody since September 2017 on a separate
8 firearms case currently pending in San Francisco Superior Court. Counsel also questioned the strength
9 of the evidence supporting the violation of 18 U.S.C. § 922(g)(1) charged in the captioned indictment.

10 In response, the government explained that the pending Superior Court case referenced by the
11 defense concerns a March 17, 2016 shooting in San Francisco in which the defendant is alleged to have
12 fired a semiautomatic pistol at another individual at close range. On March 25, 2016, eight days after
13 that alleged shooting, the defendant was charged with three separate, unrelated violations of 18 U.S.C. §
14 922(g)(1). *See* CR 16-161 EDL, dkt. 1. The government directed this Court to the findings made by the
15 Magistrate Judge who presided over the defendant's April 7, 2016 detention hearing in CR 16-161 EJC.
16 *Id.*, dkt. 6 (Findings in Support of Detention).

17 The government also cited the defendant's criminal history, which includes four prior felony
18 convictions related to the unlawful possession of firearms, as well as a misdemeanor conviction for
19 active participation in a criminal street gang.

20 Finally, the government provided a detailed overview of the evidence supporting the offense
21 charged in the captioned indictment.

22 **III. ANALYSIS**

23 After hearing from both parties and considering the report prepared by U.S. Pretrial Services, the
24 Court finds by clear and convincing evidence that the defendant is a danger to the community. The
25 findings of the Magistrate Judge who presided over the defendant's April 7, 2016 detention hearing are
26 of particular relevance to this Court as to the current dangers posed by the defendant. Since April 2016,
27 the defendant has been convicted of the three counts of 18 U.S.C. § 922(g)(1) charged in that case,
28 served an 18 month prison sentence, commenced a grant of supervised release, and has now been

1 indicted with a new firearms violation. He is also charged in a separate firearms case related to the
2 aforementioned March 17, 2016 shooting. This Court finds that no condition or combination of
3 conditions of release will reasonably assure the safety of any other person and the community from the
4 defendant. Accordingly, the defendant must be detained pending trial in this matter.

5 The present order supplements the Court's findings and order at the May 23, 2019 detention
6 hearing and serves as written findings of fact and a statement of reasons as required by 18 U.S.C. §
7 3142(i)(1). These findings are made without prejudice to the defendant's right to seek review of
8 defendant's detention, or file a motion for reconsideration if circumstances warrant it.

9 **IV. CONCLUSION**

10 Pursuant to 18 U.S.C. § 3142(i), IT IS ORDERED THAT:

11 1. The defendant be, and hereby is, committed to the custody of the Attorney General for
12 confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving
13 sentences or being held in custody pending appeal;

14 2. The defendant be afforded reasonable opportunity for private consultation with counsel;
15 and

16 3. On order of a court of the United States or on request of an attorney for the government,
17 the person in charge of the corrections facility in which the defendant is confined shall deliver the
18 defendant to an authorized United States Marshal for the purpose of any appearance in connection with a
19 court proceeding.

20
21 IT IS SO ORDERED.

22
23 DATED: May 29, 2019

24 
25 HONORABLE SALLIE KIM
26 United States Magistrate Judge
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